

Patrick M. Kennell
E: pkennell@kaufmandolowich.com
D: 646.599.9420

Kaufman Dolowich LLP
40 Exchange Place, 20th Floor
New York, NY 10005
Telephone: 212.485.9600
Facsimile: 212.485.9700
www.kaufmandolowich.com

January 9, 2025

VIA ECF

The Honorable Jennifer E. Willis, U.S.M.J.
United States District Court
Southern District of New York
40 Foley Square, Room 425
New York, New York 10007

Re: **EZ DEFENDANTS' LETTER MOTION FOR FIVE-MONTH CASE
MANAGEMENT EXTENSION AND RESPONSE TO AVCHUKOV'S
PLAINTIFFS' "STATUS REPORT & REQUEST FOR DISCOVERY STATUS
CONFERENCE" (ECF NO. 126)**

Brockmole, et al. v. EZ Festivals LLC, et al.
Avchukov, et al. v. Avant Gardner, LLC, et al.
Palie, et al. v. EZ Festivals LLC, et al.
Ting, et al. v. Avant Gardner LLC, et al.
Case No. 1:23-cv-08106-VM (Consolidated)

Dear Judge Willis:

Our firm represents Defendants EZ Festivals LLC, Avant Gardner LLC, Made Event LLC, Jurgen Bildstein, CityFox, Reynard Productions, and AGDP Holding, Inc. (the "EZ Defendants") in the above four putative class action lawsuits. Pursuant to Section II.A. of Your Honor's Individual Practices in Civil Cases, we respectfully submit this letter in response to the January 6, 2025 letter from the Avchukov Plaintiffs' counsel, Jonathan Corbett, seeking a discovery conference. (ECF No. 126).

Put simply, the parties have generally agreed to approach the Court and jointly request a five-month extension of the current case management schedule, and issues regarding the scope of the EZ Defendants' electronically-stored information (ESI) production are being addressed among the parties and need not involve the Court at this point. **Accordingly, we respectfully suggest that no discovery conference is necessary, as requested by Mr. Corbett. In addition, given the parties' agreement to extend fact discovery, we respectfully request that the Court grant a five-month extension of the case management deadlines in this case, for good cause as demonstrated below.**

Following the Court's May 30, 2024 Order adopting the parties' proposed Initial Case Management Plan, (ECF No. 91), the parties exchanged their written discovery requests and responses and produced initial documents. The parties further agreed, in light of the then-scheduled October 2024 Settlement Conference, to await full-blown ESI work in order to conserve resources and focus on potential resolution of the case. The parties also agreed to request, and the Court granted, a further extension of the class certification briefing, again to focus on possible resolution efforts and the Settlement Conference (*see*, ECF No. 125), which since was rescheduled for March 11, 2025.

On December 9, 2024, counsel for the Palie Plaintiffs', on behalf of all Plaintiffs, wrote to undersigned counsel for the EZ Defendants proposing that the parties request from the Court a five-month extension of the fact discovery deadline from January 6, 2025 to June 5, 2025. The EZ Defendants consented.¹

In the meantime, the parties also engaged in a discussion regarding the timing and scope of the EZ Defendants' fuller ESI production. While the EZ Defendants have already produced several thousand pages of documents in PDF format and native Excel information—contrary to Mr. Corbett's incorrect assertion that Plaintiffs have “received nothing”—the EZ Defendants have been working to supplement their prior productions and are undertaking (with the assistance of an ESI vendor called Complete Discovery Source, or CDS) to collect, review, and produce certain ESI from numerous custodians. CDS guided the EZ Defendants' IT and other personnel, under the direction of undersigned counsel, through the identification and collection process, and following collection, CDS advised our firm that the process yielded a very much unexpected amount of data.

We advised all Plaintiffs' counsel *via* email on January 2, 2025 that the EZ Defendants have encountered an unexpected proportionality problem which our firm is working diligently with CDS to resolve. More specifically, as communicated to all Plaintiffs' counsel including Mr. Corbett, the files for three of the EZ Defendants' custodians contain attachments that appear to be causing an enormous data return in the realm of *seven-plus terabytes of documents*. Given the unusual and unexpected size of that ESI subset and the issues of proportionality to the case, we are diligently working with CDS and our client to resolve these issues and see what ways there are to pare down the yield. At the same time, and as Plaintiffs' counsel were further advised, the EZ Defendants have agreed to produce the bulk of the data for the remaining custodians, which data set consists of over 50,000 documents, on or before February 15, 2025—approximately one month before the scheduled Settlement Conference in this case.

Mr. Corbett responded by email late in the evening on Friday, January 3, 2025, posing further questions about the scope and timing of the EZ Defendants' ESI production. Without any meaningful opportunity to respond further to Mr. Corbett or the parties having conducted any required meet-and-confer regarding his concerns, Mr. Corbett filed his January 6, 2025 letter with

¹ Attached to this letter response as “Exhibit A” is a copy of the December 2024 email exchange among the parties' counsel regarding the agreed five-month discovery extension request to propose to the Court.

Hon. Jennifer E. Wilts, U.S.M.J.

Re: *Brockmole, et al. v. EZ Festivals LLC, et al.* (1:23-cv-08106-VM)(Consolidated)

January 9, 2025

Page 3

the Court. **The EZ Defendants respectfully submit that a discovery conference, as requested by Mr. Corbett, is not necessary at this juncture.** While we are responding separately to Mr. Corbett's last message², the EZ Defendants' representation to provide a significant amount of ESI on or before February 15, 2025 is reasonable and sufficient in light of the circumstances. We will also keep Plaintiffs' counsel closely apprised as we continue to solve the terabyte-attachment problem with our ESI vendor.

While it appears the Avchukov Plaintiffs may no longer consent to the five-month discovery extension as originally proposed by *all* Plaintiffs' counsel, **the EZ Defendants respectfully submit that good cause exists to grant the EZ Defendants' request for a five-month extension of the remaining discovery and case management deadlines in this case.**

We appreciate the Court's consideration of this response and request.

Respectfully submitted,
KAUFMAN DOLOWICH LLP

/s/ Patrick M. Kennell

Patrick M. Kennell

cc: All Counsel and Parties of Record (*Via ECF*)

² Attached to this letter response as "Exhibit B" is a copy of Mr. Corbett's January 3, 2025 email and our response to him this evening, before filing this response and letter motion.